

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DAVID BARLOW,**

**Plaintiff,**

**9:10-cv-535  
(GLS/GHL)**

**v.**

**BRIAN FISCHER and GEORGE B.  
ALEXANDER,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

David Barlow  
Pro Se  
09-B-0450  
Clinton Correctional Facility  
Dannemora, NY 12929

**FOR THE DEFENDANTS:**

HON. ERIC T. SCHNEIDERMAN  
New York State Attorney General  
The Capitol  
Albany, NY 12224

ADAM SILVERMAN  
Assistant Attorney General

**Gary L. Sharpe  
District Court Judge**

**MEMORANDUM-DECISION AND ORDER**

**I. Introduction**

Pro se plaintiff David Barlow, an inmate at Clinton Correctional

Facility, brings this action under 42 U.S.C. § 1983, alleging that he was wrongfully subjected to post-release supervision. (See Am. Compl., Dkt. No. 10.) On January 29, 2010, defendants Brian Fischer and George Alexander moved to dismiss Barlow's claims against them in their official capacities. (Dkt. No. 14.) In a Report-Recommendation (R&R) filed October 18, 2010, Magistrate Judge George H. Lowe recommended that defendants' motion be granted, that Barlow's claims against Fischer and Alexander in their official capacities be dismissed, and that defendants answer Barlow's claims against them in their individual capacities.<sup>1</sup> (Dkt. No. 28.) Pending are Barlow's objections to the R&R. (Dkt. No. 30.) For the reasons that follow, the R&R is adopted in its entirety.

## **II. Standard of Review**

Before entering final judgment, this court routinely reviews all report and recommendation orders in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations de novo. See *Almonte v. N.Y. State Div. of Parole*, No.

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<sup>1</sup>The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

04-cv-484, 2006 WL 149049, at \*6-7 (N.D.N.Y. Jan. 18, 2006). In those cases where no party has filed an objection, or only a vague or general objection has been filed, this court reviews the findings and recommendations of a magistrate judge for clear error. *See id.*

### **III. Discussion**

Barlow generally objects “to the fact that the counsel for the defendants wish[es] to have my case dismissed.” (Objections at 2, Dkt. No. 30.) Barlow does not specifically object to Judge Lowe’s findings. Regardless, the court is unable to imagine a valid basis for objection to Judge Lowe’s findings since Fischer and Alexander are not amenable to suit for money damages in their official capacities under the Eleventh Amendment. (See R&R at 4-5 & n.1, Dkt. No. 28 (collecting cases).) Thus, Judge Lowe’s recommendations contain no error, clear or otherwise.

As to Barlow’s remaining claims against Fischer and Alexander in their individual capacities, the court repeats Judge Lowe’s direction to defendants that they proceed with their answer.

### **IV. Conclusion**

**WHEREFORE**, for the foregoing reasons, it is hereby

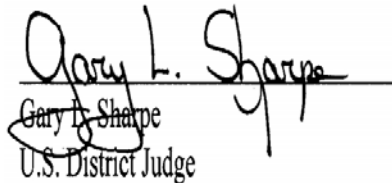
**ORDERED** that Magistrate Judge George H. Lowe's Report-Recommendation (Dkt. No. 28) is **ADOPTED**; and it is further

**ORDERED** that defendants' motion (Dkt. No. 14) is **GRANTED** and Barlow's claims against Brian Fischer and George Alexander in their official capacities are **DISMISSED**; and it is further

**ORDERED** that the Clerk provide copies of this Memorandum-Decision and Order to the parties.

**IT IS SO ORDERED.**

February 17, 2011  
Albany, New York

  
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Gary L. Sharpe  
U.S. District Judge